

CHAPTER 6

GUIDELINE USERS' SURVEY

BACKGROUND

The primary purpose of the guideline users' survey was to learn stakeholders' views about (1) what they believe is working well and not so well with the existing guideline, (2) what they see as the guideline's strengths and weaknesses, and (3) what features of the guideline could be improved. In particular, the survey addressed the three key issues that were the main focus of the study:

- *Low income.* Does the guideline make an adequate adjustment for low-income cases? What ideas do stakeholders have for improving the low-income provisions in the guideline?
- *Gross versus net income.* What income base should be used to calculate child support orders? Are there other options the Legislature should consider using?
- *Additional dependents.* Does the existing guideline deal adequately with cases in which there are additional dependents?

In addition, the survey captured information on a wide range of other issues of secondary interest to the Judicial Council, including how to deal with high-income cases, shared parenting, and add-ons to the basic support obligation (for example, for child care or extraordinary medical expenses of the children who are the subject of the support order).

Methodology

The Judicial Council, with assistance from Policy Studies Inc. (PSI), designed a questionnaire to administer to people who use the guideline to establish and modify child support orders. This included (1) judicial officers and others who work in the court environment (such as family law facilitators), (2) public and private attorneys who deal with family law matters, (3) child support specialists and others who work on child support issues, and (4) advocates for custodial and noncustodial parents and children.

The survey was specifically designed to capture the opinions and ideas of people who use the guideline frequently to establish and modify child support orders. From their multiple experiences, the strengths and weaknesses of the guideline and the problems the guideline creates in establishing orders could be determined so that the

Judicial Council could better understand where refinements should be made. An assumption was made that parents could not bring the perspective that users have when applying the guideline in multiple family situations. Yet, there was still value in parents' opinions. Therefore, a decision was made to capture parents' views in a series of focus groups instead of through a survey. However, as parents learned about the survey, they wanted to respond, which was allowed. As one parent wrote:

As I reached the end of the survey, I realized that it was geared to the professional in the field. But I hope that my answers and those of other noncustodial parents are taken into consideration in your survey.

Since not all respondents identified themselves as parents or guideline users, the ability to discriminate between the responses of users and parents could not always be tabulated. Where possible and useful to the analysis, however, the answers of different respondent groups in this report were examined.

The survey was administered between September and October 2000. (A copy of the survey instrument is attached in Appendix D.) Multiple approaches to distributing it were used, including direct mail, in-person distribution, and e-mail. Word-of-mouth was also an important means of announcing the survey and was the method by which most parents learned about it. Surveys were mailed directly to those people whose opinions were definitely desired and who otherwise might not know about the survey. This included people known to Judicial Council staff who were working on the study and people, particularly academic, who PSI team members knew had conducted work on the guideline. Surveys were also distributed to attorneys at a California Bar Association conference in San Diego. The majority of potential respondents were notified electronically by e-mail. The e-mail message included a short overview of the survey's purpose and invited respondents to complete the survey online at a Web site that PSI programmed for this purpose. The e-mail also included a hard copy of the survey as an attachment that respondents could print and mail directly to PSI offices in Denver.

Once the surveys were submitted or returned, staff at PSI key-entered the data and tabulated and analyzed the findings from them.

General Analytic Considerations

The principal advantage of an electronic and mail survey over other survey options (for example, by telephone) is the cost. Electronic surveys are by far the most cost efficient of any alternative, and they are more convenient to respondents than traditional survey methods. This convenience, however, also brings limitations. The biggest limitation is that the group administering the survey has no control over the response rate, either the survey return rate or the response rate to individual items

on the survey instrument. This lack of control, which is also a limitation of mail surveys, frequently results in high nonresponse rates, and that was true with the users' survey that was administered for this study.

The inability to control the response rate is also a disadvantage if it is important to generalize the survey findings to the larger population. For example, in this study the attitudes of child support staff who responded cannot be generalized to the entire population of child support staff in California, because it cannot be guaranteed that they represent a random sample of all staff.⁵⁵ On the other hand, making that generalization was not the primary purpose of the survey. Rather, the Judicial Council was looking for ideas to address potential problems with the existing guideline in order to refine the guideline so that it better meets the needs of families and the people who use it to establish and modify child support orders. That purpose is accomplished by the survey returns, and the following sections of this report provide numerous ideas for where improvements are needed.

Before discussing the responses to individual questions, it is useful to identify an approach to examining the survey data since what is learned from the data depends on the kinds of questions asked. Sometimes what is learned is defined by the design of the survey instrument; for example, forced-choice questions allow for an examination of different issues and perspectives than open-ended questions. Yet, there is a small set of basic evaluation questions that can be asked of every survey item. These questions are listed in the following box. It is not possible and often not useful to evaluate each survey item against the complete list of questions in the box. However, readers will find answers to the questions either in the graphics or in the narrative discussion.

⁵⁵ Furthermore, several IV-D offices submitted group responses, so their opinions are under-represented in the overall statistics.

ASKING BASIC QUESTIONS ABOUT THE DATA

- ✓ How many respondents gave positive answers to the questions (that is, besides “don’t know” or “no response”)?
- ✓ Of those who gave positive answers, how many answers (on average) did they give? That is, if the question was open-ended, did respondents provide more than a single answer?
- ✓ What was the range of responses? For example, when respondents were asked what they saw as the strengths of the guideline, did they list a few or many features?
- ✓ How frequently was any single response given, and are there response patterns that can be highlighted?
- ✓ Can issues, features, or problems that are more important than others to the respondents be isolated?
- ✓ How do opinions and attitudes differ based on selected respondent characteristics (for example, position or years working with the guideline)?

Respondent Characteristics

Survey findings ultimately reflect the characteristics of the respondents. These characteristics often help researchers explain and interpret attitudes and opinions evidenced in the respondents’ answers to survey questions. For example, private family law attorneys may have different attitudes about the fairness of the child support guideline than child support staff because of the different case types they primarily serve. For this reason, it is useful to examine the characteristics of respondents. This is done in Exhibit 6-1.

The survey captured very little background information about respondents, just their position, years working with the child support guideline, and the counties in which they primarily work. For the purposes of displaying the data, the responses about position were regrouped into six categories: (1) court personnel (judicial officers and family law facilitators), (2) private family law attorneys, (3) child support enforcement staff (IV-D attorneys, specialists, supervisors, administrators, and any other respondents who identified themselves as part of the IV-D office), (4) advocates

for children and parents, (5) parents, and (6) all other respondents (for example, academics, legal aid representatives, and respondents who did not identify themselves). A parent category was not included on the survey instrument since parents were not expected to respond. Thus, a new code for parents was created, which included any respondents who identified themselves as parents in the “other” category on the survey. It was not always possible to know from their responses whether the parents were custodial or noncustodial parents.

Exhibit 6-1 shows the number of respondents in each of the six groups. The “other” group includes respondents who identified their position but whose numbers were too small to merit creating a separate group; to include them as part of another group was not desirable. For example, a separate category for academics was not created since only seven respondents identified themselves as academics, and it was believed inappropriate to include their opinions with the opinions of any other separately identified group. The “other” group also includes respondents who did not identify their position at all. In fact, this is what most of the “other” group includes. Since this group cannot really be classified, the statistics for this group are presented in the accompanying exhibits, but they are ignored in the narrative discussion.

On average, respondents reported having worked with the child support guideline for 7 years. This average varied by respondent group from a low of 6 years for advocates to a high of 8.8 years for private family law attorneys. Regardless of this difference, however, it is clear that most respondents have considerable experience using the guideline. This observation includes parents, more than half of whom (54 percent) listed some experience. The average number of years this group reported having used the guideline was 6.9 years. Although it seems hard to believe that parents have had this much experience using the guideline, there is no basis for challenging this statistic and one can only guess at what experience they were citing.

The question that asked respondents to identify the county in which they work was also recoded. The question was included partly to ensure that there was some representation from every county in California, which did occur. The counties were regrouped into small, medium-size, and large counties based on their January 2000 population as reported on the California government Web site. Based upon population statistics from January 2000, small, medium-size, and large counties—as defined by this study—constituted 2.5, 22.5, and 75.1 percent of the total California population. The survey population indicates higher proportional input from respondents from small and medium-size counties and lower proportional input from large counties.

6-1

FAIRNESS AND ADEQUACY OF THE GUIDELINE

In order to understand how adequate the guideline is in setting support obligations, the survey asked several questions about the fairness of the guideline to parents and children, the strengths and weaknesses of the guideline, how adequately the guideline addresses specific circumstances that arise frequently in establishing and modifying support orders, and which families are helped and which are disadvantaged by the guideline. This section reports the findings from these questions.

Support Order Levels

The survey asked respondents for their opinions about (1) the fairness of the California child support guideline to the parents, to the children for whom support is sought, and to the parents' children from other relationships; and (2) whether the guideline results in support orders that are too high, about right, or too low. This information is displayed below in Exhibits 6-2 and 6-3, respectively.

Exhibit 6-2 Perceived Fairness of the Child Support Guideline (Average Rating)¹							
How fair do you believe the child support guideline is to the...	Respondent's Job/Area of Work						TOTAL (n=616)
	Judicial Officers/Family Law Facilitators (n=117)	Private Family Law Attorneys (n=59)	IV-D Child Support (n=200)	Parent/Child Advocates (n=97)	Parents (n=52)	Other ² (n=91)	
Noncustodial parent/payor?	2.31	2.17	2.69	1.32	1.24	1.87	2.11
Custodial parent/payee?	3.12	3.17	3.01	2.60	2.75	3.03	3.01
Children for whom the support is awarded?	3.01	2.84	2.99	1.70	1.70	2.41	2.56
Children from other relationships?	2.16	2.16	2.66	1.28	1.34	1.77	2.08

¹ Average (mean) ratings are computed using a four-point scale where 4=very fair, 3=fair, 2=unfair, and 1=very unfair. Thus, the higher the average rating, the fairer respondents believed the guideline to be. Averages exclude respondents who did not answer or who did not know how to rate the question.

² Other includes academics, legal aid representatives, private child support specialists (non-attorneys), and others (for example, taxpayer, layperson, law student). It also includes all respondents who did not identify themselves.

The data shown in Exhibit 6-2 are average (mean) ratings computed using a four-point scale where 1=very unfair, 2=unfair, 3=fair, and 4=very fair. Thus, the *higher* the average rating, the *more fair* respondents viewed the impact of the guideline on

parents and children. Conversely, the *lower* the average rating, the *less fair* respondents viewed the impact. A rating of 2.5 would suggest that respondents did not see the impact as either fair or unfair.

Overall, respondents gave an unfair rating on average (that is, ratings averaging close to 2) to the guideline's impact on the noncustodial parent/payor and the parents' children from other relationships. They gave a neutral rating for the impact on the children for whom support is awarded, and they gave a fair rating for the impact of the guideline on the custodial parent/payee. Thus, while respondents generally believed that the guideline results in awards that are fair to the payee and somewhat fair to children (average=2.57), they viewed the guideline as mostly unfair to the payor (average=2.11) and to the parents' children from other relationships (average=2.08).

What is clear from a further examination of the data in Exhibit 6-2 is that the overall averages mask distinctions among respondent groups. On one side are the views of parents and advocates, who without exception have the lowest average ratings for fairness of all groups and are very similar in all four of their ratings. Another point of view is seen in the ratings from judicial officers and private family law attorneys. They rate the guideline as more fair to parents and children than do parents and advocates. A third view is seen in the ratings given by IV-D child support respondents. They give the highest fairness ratings of any group to the impact of the guideline on noncustodial parents and the children from other relationships, but they are not the highest on the other ratings.

One advantage of using mean ratings rather than proportional response rates is that differences in average ratings can more easily be statistically observed.⁵⁶ The average ratings of respondents were compared based upon their position (the first five groups in Exhibit 6-2), the number of years they reported having worked with the California child support guideline (less than 5 years, 5–10 years, or 10 years or more), and the size of the county they represented (small, medium-sized, or large). There are no statistical differences in the average ratings based upon the county size. There are differences based on respondents' position and years of experience with the guideline, as listed below.

- **Fairness of the guideline to noncustodial parents**

Position: Both advocates and parents gave a statistically lower average fairness rating to the guideline's impact on noncustodial parents compared to the other three groups. There are no statistical differences between parents and advocates

⁵⁶ Differences are only reported when the difference in means is statistically significant at the 95 percent level of confidence or higher. That is, the likelihood that this difference occurred by chance alone is less than 5 percent.

in their average fairness ratings. There also are no differences between respondents representing the court, private attorneys, or the child support office.

Years of Experience: There are no statistical differences by years of experience.

- **Fairness of the guideline to custodial parents**

Position: The average fairness ratings of all five position groupings are statistically the same.

Years of Experience: Respondents who had worked with the guideline 5 years or less gave a statistically higher average fairness rating than did respondents who had worked with the guideline between 5 and 10 years.

- **Fairness of the guideline to children for whom support is awarded**

Position: Advocates and parents gave a statistically lower average fairness rating to the guideline's impact on children for whom support is awarded compared to the other groups. There are no statistical differences between parents and advocates in the average fairness ratings. There also are no differences between respondents representing the court, private attorneys, or the child support office.

Years of Experience: Respondents who had worked with the guideline 10 years or more gave a statistically higher average fairness rating than did respondents who had worked with the guideline between 5 and 10 years.

- **Fairness of the guideline to parents' children from other relationships**

Position: Advocates gave a statistically lower average fairness rating than respondents from the child support office. There were no other statistical differences by position.

Years of Experience: Respondents who had worked with the guideline 5 years or less gave a statistically higher average fairness rating than did respondents who had worked with the guideline between 5 and 10 years.

Exhibit 6-3 looks at a somewhat different issue; namely, whether the guideline results in orders that are too low, too high, or about right. A majority (60 percent) answered that they believe order amounts are too high. Somewhat more than a quarter of all respondents (28 percent) thought the guideline results in orders that are about right, and only 4 percent believed the order amounts using the guideline are too low. Some 8 percent of respondents did not answer the question or said they did not know.

6-3

As the lower half of Exhibit 6-3 illustrates, the opinions about order levels were not widely shared by all respondent groups. Thus, while 87 and 92 percent of advocates and parents respectively said the guideline results in orders that are too high, only about half of the respondents in the other three groups seemed to agree. The differences are statistically significant. That is, the proportion of advocates and parents who said the guideline results in orders that are too high was significantly different from the similar proportions reported by the other three groups. Conversely, the proportion of advocates and parents who said the guideline results in order levels that are about right was significantly less than the comparable proportions among the other three groups. Very few respondents in any group believed the guideline results in orders that are too low.

Strengths and Weaknesses

Exhibits 6-4 and 6-5 respectively look at what respondents saw as the strengths and weaknesses of the child support guideline. These were presented as open-ended questions; thus, respondents were allowed to mention as many issues as they wanted. Somewhat more than a third of all respondents (37 percent) did not list a strength of the guideline, and a slightly smaller proportion (31 percent) did not list a weakness. In some cases respondents did not answer either question, which may reflect an unwillingness to answer open-ended questions generally. However, further examination of the data show that nonresponse to one question did not predict nonresponse to the other question. Thus, not much is known about the reasons for not responding.

Strengths

From the nonresponse rates, it appears that it was more difficult to identify strengths than it was to identify weaknesses. For example, in addition to the 37 percent of all respondents who did not list a strength of the guideline, another 8 percent stated there were no strengths. There were no respondents who said “none” in answer to the question about weaknesses. Thus, about 15 percent more respondents listed a weakness than listed a strength.

Usually, the list of strengths and weaknesses is best presented in a single exhibit, because often what some respondents see as strengths, others see as weaknesses, and the lists are very similar. This was not true for respondents’ comments in this survey; the list of strengths was very different from the list of weaknesses.

As shown in Exhibit 6-4, 22 percent of all respondents thought consistency, uniformity, or objectivity were the biggest strengths of the guidelines. Other strengths were mentioned much less frequently, but there were many of them. The display in the exhibit was limited to those strengths that were mentioned by at least 5 percent of all respondents, but there were a large number of other strengths listed by smaller proportions of respondents. One way of looking at the list in Exhibit 6-4 is to group the strengths into broader categories. The strengths are organized into the following four categories.

- *Having a guideline.* Respondents saw the existence of a guideline as a strength because (1) it provides consistency, uniformity, and objectivity to the calculation of support obligations (22 percent); and (2) it yields predictable results (11 percent). A third of all respondents mentioned these two aspects as strengths. Surveys of users in other states also find these to be the most frequently mentioned strengths of guidelines.

Among the comments users made were, “Formula driven; it takes away the arguments between the parents over need,” “It promotes uniformity in the determination of child support,” and “It provides a method to obtain a child support order without knowledge of the noncustodial parent’s income based upon an acceptable standard of adequate care.”

- *Specific factors included in the guideline.* This includes comments about (1) the time-share adjustment in the guideline (10 percent of respondents cited this as a strength) and (2) the guideline’s use of net income (9 percent).

Users’ comments included, “It is based on disposable income after tax obligations,” “It takes account of the income of both parents, and it is adjusted for the time share of each parent,” and “I like it that all biological children are taken into consideration, that there is a credit allowance for other support received and paid, and that there are health insurance allowances for both parties.”

- *Application of the guideline.* This category covers the mechanics involved in using the guideline to calculate support. Thus, respondents thought the guideline was (1) easy to use and simple to explain (7 percent of respondents cited this as a strength) and (2) allows judicial discretion (6 percent).

Users made the following comments: “It is easy enough to use that parents can do the paperwork on their own,” “There is still discretion in the court to enter a different order,” and “It is simple to explain to parents how child support is calculated.”

- *Outcomes from using the guideline.* This category refers to (1) support amounts are fair to children (7 percent mentioned this as a strength), and (2) the guideline yields reasonable support amounts (5 percent). Thus, even though a majority of respondents believe the support orders are too high and relatively unfair to parents, some respondents see the order levels as about right when it comes to supporting children.

Among the users' comments were, "It provides well for children from middle- and upper-income families," "It attempts to maintain the standard of living for the children," and "It helps to make reasonable orders that are calculated the same for all parents."

Weaknesses

By applying the four categories of strengths to the list of weaknesses displayed in Exhibit 6-5, it can be seen that most of the weaknesses respondents mentioned deal principally with the *factors the guideline includes*. This included comments about the (1) time-share adjustment (13 percent of respondents mentioned this as a weakness because they believe it encourages parental conflict), (2) the guideline's inability to address special factors such as housing costs of the noncustodial parent (12 percent), (3) the additions to the basic support obligation for child care and medical expenses (11 percent), and (4) the low-income adjustment, which many saw as inadequate given the cost of living in California (7 percent).

The most frequently mentioned weakness dealt with the *outcomes that result from application of the guideline*: 19 percent of respondents said that the support amounts calculated using the guidelines are too high. Finally, 13 percent of respondents complained about *how the guideline is applied*; namely, that it is too rigid and inflexible. This group of respondents wanted the guideline to allow more discretion to judicial officers so that they could consider the special needs of the parents and the children for whom support was sought.

Below are some comments from users that reflect their thoughts about weaknesses. As some of the comments illustrate, what for some respondents was a strength, for others was a weakness.

- *Specific factors included in the guideline.* "Time-share rules create harsh results sometimes and invite child custody/visitation litigation," "Tax status, the deductibility of items, and the adjustments to reach net are cumbersome and misunderstood by many," and "Choose one and only one method for accounting for medical and child care; either it's in the K-factor or it isn't. Now it's in the K-factor, but double-billed after the fact."

6-5

- *Application of the guideline.* “It is very complicated to calculate without a computer program or to explain to a layperson,” “Inconsistency in imputing income and in the application of hardships and low-income adjustment gives very disparate results in similar cases,” and “There is not enough flexibility, especially in interstate cases where the obligor lives in California and the obligee lives in another state. The code specifically says that our guideline is artificially high because of California’s cost of living.”
- *Outcomes from using the guideline.* “The guidelines yield an unrealistically high amount for low-income earners,” “Payors are being impacted severely at times by too-high child support orders. This results in rebellion against the custodial parent and strained relations with all parties (which negatively affects the children and both families),” and “There is no way to assure that the children receive the monies due to them.”

Some respondents believed the guideline should include (1) enforcement mechanisms to monitor how the custodial parent uses the child support (for example, “I see way too many cases where custodial parents use the child support monies so that they don’t have to work—or work below their capabilities—rather than use the money to improve their children’s lives.”), (2) more consideration of second families (for example, “The guideline is not fair to children not covered by the support order but who are dependent on the income of the noncustodial parent.”), and (3) an adjustment to ensure a subsistence level of income to the noncustodial parent (for example, “The guideline does not take into consideration a subsistence level of income for low-income obligors.”).

Adequacy of the Guideline in Dealing With Specific Issues

While open-ended questions are useful in capturing a wide *range* of issues that the guideline handles well or not so well and the importance of those issues to respondents (based on the frequency each issue is mentioned), they do not allow a comparison of the *relative* importance of those issues or show in a quantitative sense how adequately or inadequately respondents believe the guideline is dealing with specific issues. For example, Exhibit 6-5 shows that 13 percent of respondents thought the guideline adjustment for time sharing was a weakness and that 7 percent of respondents believed the low-income adjustment provision is not in line with the cost of living. It is not possible from this information, however, to know how inadequate the adjustments are or how the adequacy of those adjustments compares to other adjustments.

In order to understand better how well the guideline is addressing specific issues and whether it is addressing some issues better than others, the survey included a set of questions that asked respondents to rate how adequately or inadequately the guideline addresses 11 issues. Ratings used a four-point scale where 1=very inadequate, 2=inadequate, 3=adequate, and 4=very adequate. The average (mean) scores from these ratings—excluding respondents who did not answer or who did not know how to rate a specific issue—are presented in Exhibit 6-6.

Since the average ratings exclude all respondents who did not provide a rating or who did not know how to rate the factor, it is useful to consider the elements of nonresponse. For all the 11 factors, the proportion of respondents who did not answer the question was consistently about 5–6 percent. While there was modest nonresponse from every group, the groups with the highest proportion of respondents who did not answer the questions were private attorneys and judicial officers.

The “don’t know” response rate was relatively high (that is, above 10 percent of the respondents who answered the question) for 6 of the 11 questions. The precise reasons why many respondents did not rate these issues are not known, although it is possible that the issues do not appear frequently enough in applying the guideline for respondents to know how to rate them. For example, the highest “don’t know” response rates were to the following issues (1) adjustments for spousal support (25 percent of respondents), (2) cases in which the income of the noncustodial parent is unknown (19 percent), (3) work- or education-related child-care costs for children from other relationships (17 percent), and (4) high-income cases (14 percent). Further support for the belief that lack of familiarity may explain most of the “don’t know” responses comes from looking at response rates for individual groups. Parents and advocates had very high “don’t know” response rates for all these issues, while the comparable rates for other respondent groups were low (generally 5 percent or less). The one exception was that 31 percent of IV-D child support staff said they did not know how to rate the issue of spousal support adjustments, which does not seem surprising given their client population.

An average score of 2.5 in Exhibit 6-6 would suggest that respondents believed the guideline is neither adequate nor inadequate in dealing with the issue. Averages less than 2.5 suggest that respondents believed the guideline is *inadequate* in dealing with the issue, while ratings above 2.5 suggest respondents saw the guideline as *adequate*. The overall ratings indicate that respondents believed the guideline deals:

- *Somewhat adequately* with two issues (average ratings between 2.50 and 2.60): (1) work- or education-related child-care costs for the children who are the subject of the support being ordered (average=2.59) and (2) health-insurance expenses (average=2.58).

- *Somewhat inadequately* with two issues (ratings between 2.40 and 2.50): (1) provisions for calculating the net income of both parents (average=2.45) and (2) adjustments for additional natural or adopted children living in the mother's or father's home (average=2.41).
- *Inadequately* with the remaining seven issues (averages below 2.40). For one of these seven issues—the adequacy of the guideline in dealing with low-income cases—the average rating was between inadequate and very inadequate.

An examination of ratings by the five major respondent groups in Exhibit 6-6 suggests that respondents' opinions about the existing guideline were not widely shared. Similar to the fairness ratings in Exhibit 6-2, parents and advocates gave consistently lower average adequacy ratings to all the issues than did other groups. But there are other differences in the table that are not as obvious. Thus, in the table below, the statistical differences for each issue are identified as a guide to policy makers as they consider refinements to the guideline.

Exhibit 6-6 Respondents' Ratings About How Adequately Guideline Deals With Selected issues (Average Rating) ¹								
How adequately does the guideline deal with...	Respondent's Job/Area of Work						TOTAL (n=616)	Rank ³
	Judicial Officers/ Family Law Facilitators (n=117)	Private Family Law Attorneys (n=59)	IV-D Child Support (n=200)	Parent/ Child Advocates (n=97)	Parents (n=52)	Other ² (n=91)		
Work- or education-related child-care costs for children who are the subject of the support being ordered?	2.61	2.62	2.89	2.01	2.18	1.88	2.59	1
Health-insurance expenses?	2.76	2.66	2.79	2.13	2.27	2.43	2.58	2
Provisions for calculating the net income of both parents?	2.88	2.54	2.87	1.80	1.61	2.07	2.45	3
Adjustments for additional natural or adopted children living in the mother's or father's home?	2.53	2.26	2.91	1.62	1.50	2.19	2.41	4
Cases in which the mother or father has a support order for children from a prior or subsequent relationship?	2.49	2.43	2.83	1.63	1.50	2.02	2.39	5
Adjustments for spousal support?	2.67	2.41	2.78	1.69	1.42	2.12	2.36	6
Adjustments for sharing physical custody?	2.58	2.23	2.84	1.50	1.48	1.93	2.28	7

Exhibit 6-6 Respondents' Ratings About How Adequately Guideline Deals With Selected issues (Average Rating)¹								
How adequately does the guideline deal with...	Respondent's Job/Area of Work						TOTAL (n=616)	Rank ³
	Judicial Officers/ Family Law Facilitators (n=117)	Private Family Law Attorneys (n=59)	IV-D Child Support (n=200)	Parent/Child Advocates (n=97)	Parents (n=52)	Other ² (n=91)		
High-income cases?	2.52	2.06	2.73	1.49	1.31	1.92	2.24	8
Work- or education-related child-care costs for children from other relationships?	2.10	1.85	2.40	1.67	1.39	2.39	2.07	9
Cases in which the income of the noncustodial parent is unknown?	2.29	1.96	2.23	1.58	1.54	1.82	2.06	10
Low-income cases?	1.76	2.12	2.40	1.53	1.34	1.79	1.98	11

¹ Average (mean) ratings are calculated using a four-point scale where 4=very adequate, 3=adequate, 2=inadequate, and 1=very inadequate. Thus, the higher the average rating, the more adequately respondents believe the guideline deals with that issue. Averages exclude respondents who did not answer or who did not know how to rate the issue.

² Other includes academics, legal aid representatives, private child support specialists (non-attorneys), and others (for example, taxpayer, layperson, law student). It also includes all respondents who did not identify themselves.

³ Rank is based on the average rating given by all respondents.

Statistical Differences in Average Adequacy Ratings for Selected Issues by Respondents' Position/Job	
Work- or education-related child-care costs for children who are the subject of the support being ordered.	<ul style="list-style-type: none"> The average rating for advocates is significantly lower than the average for all other groups except parents. The average rating for child support staff is significantly higher than the average rating for parents.
Health-insurance expenses	<ul style="list-style-type: none"> The average rating for advocates and parents is significantly lower than the average for judicial respondents and child support staff.
Provision for calculating the net income of both parents	<ul style="list-style-type: none"> The average rating for advocates and parents is significantly lower than the average for all other groups.
Adjustments for additional natural or adopted children living in the mother's or father's home	<ul style="list-style-type: none"> The average rating for advocates and parents is significantly lower than the average for all other groups. The average rating for child support staff is significantly higher than the rating for judicial respondents and private attorneys.
Cases in which the mother or father has a support order for children from a prior or subsequent relationship	<ul style="list-style-type: none"> The average rating for advocates and parents is significantly lower than the average for all other groups. The average rating for child support staff is significantly higher than the rating for judicial respondents and private attorneys.
Adjustments for spousal support	<ul style="list-style-type: none"> The average rating for advocates and parents is significantly lower than the average for all other groups.
Adjustments for sharing physical custody	<ul style="list-style-type: none"> The average rating for advocates and parents is significantly lower than the average for all other groups.

Statistical Differences in Average Adequacy Ratings for Selected Issues by Respondents' Position/Job	
	<ul style="list-style-type: none"> The average rating for child support staff is significantly higher than the rating for private attorneys.
High-income cases	<ul style="list-style-type: none"> The average rating for advocates and parents is significantly lower than the average for all other groups. The average rating for child support staff is significantly higher than the rating for judicial respondents and private attorneys.
Work- or education-related child-care costs for children from other relationships	<ul style="list-style-type: none"> The average rating for advocates and parents is significantly lower than the average for all other groups. The average rating for child support staff is significantly higher than the rating for judicial respondents.
Cases in which the income of the noncustodial parent is unknown	<ul style="list-style-type: none"> The average rating for advocates and parents is significantly lower than the average for judicial respondents and child support staff.
Low-income cases	<ul style="list-style-type: none"> The average rating for advocates and parents is significantly lower than the average for private attorneys and child support staff. The average rating for child support staff is significantly higher than the rating for judicial respondents.

Further, although there are no statistically significant differences in the average ratings based on the respondents' years of experience using the guideline, there are a few differences based on the county size.

- For three issues—adjustments for spousal support, adjustments for sharing physical custody, and provisions for calculating the net income of both parents—respondents from large counties gave average ratings that were significantly lower than the average ratings given by respondents from medium-sized counties.
- For one issue—high-income cases—respondents from large counties gave a significantly lower average rating than did respondents from either small or medium-sized counties.

The detailed comments respondents made to other survey questions add insight to the ratings shown in Exhibit 6-6, particularly for those issues that respondents believed the guideline does not adequately address. Below, a few of the issues that received the lowest ratings are discussed; that is, those issues respondents believed the guideline addresses least adequately.

Adjustments for Low Income

Overall, this issue received the lowest adequacy rating of all the 11 issues respondents were asked to rate, despite the fact that the guideline permits deviations to the support amount when the obligor's net income is less than \$1,000 per month.

The objection most respondents raised to how the guideline deals with low-income obligors is that the income threshold at which the adjustment can be applied is too low. They argued that many parents whose income is above the threshold find it hard to maintain a minimal standard of living and pay their child support. The main suggestion they had was to establish a new, higher threshold. Others suggested not only increasing the threshold, but adding a sliding scale to accommodate low-income obligors whose income was close to the new threshold.

Finally, many respondents did not believe a single threshold was fair because the cost of living among California counties is so variable. They argued that the threshold at which an obligor would qualify for a low-income adjustment should be different in different counties.

Cases When the Noncustodial Parent's Income Is Unknown

This issue received the second lowest overall adequacy rating of the 11 issues. Based upon comments elsewhere in the survey, respondents seemed to be concerned about how to establish income when the noncustodial parent is self-employed, underemployed, works seasonally for cash wages that are not reported, or is chronically unemployed, incarcerated, or mentally ill. Respondents complained that it was impossible in these types of cases to establish income accurately, particularly for self-employed parents. Many respondents seemed to believe that these circumstances lead parents to "hide" income (to shift income or use creative accounting) or to deliberately underreport income.

Unlike some other issues, respondents did not seem to have a ready solution for resolving this difficulty.

High-Income Cases

Dealing with high-income cases was also problematic for respondents. This is reflected in the relatively low adequacy rating in Exhibit 6-6. Respondents appeared to be worried about the absence of any consistent mechanism for dealing with high income and the lack of guidance about what an appropriate mechanism might be. As one judge wrote: "I don't think guidelines can fairly handle all high-income cases. Judges need to have discretion in these cases."

Spousal Support

There was not a lot of comment about spousal support, and the survey did not ask a specific set of questions about this issue. Nevertheless, the inclusion of a question about how adequately the guideline deals with spousal support prompted comments, mostly negative, from a few people who saw that support as further impoverishing the noncustodial parent. The following comment seemed something worth reporting:

I don't believe that a fair appraisal of the guidelines for child support can be achieved without a similar look at the guidelines for spousal support. Spousal support takes money away from the children of both the first and second families. I truly believe that a state survey of spousal support would result in demand for time-limited spousal support or for complete elimination of spousal support if the standard of living of the children were in jeopardy.

For Which Families Is the Guideline Helpful or Difficult?

Respondents' ratings of how adequately the guideline deals with selected issues are reflected in their views about what types of families are helped by the guideline and what types of families find the guideline difficult. These views are displayed in Exhibit 6-7, but only for those respondents who gave an answer to one or both questions. Thus, it excludes the 40 percent of respondents who did not answer the question about what types of families the guideline helps and the 35 percent of respondents who did not answer the question about what family types find the guideline difficult.

It is easy to see in the exhibit that for the same family type some respondents thought the guideline was helpful and others thought it created difficulties. Thus, while 8 percent of respondents felt the guideline was helpful to every family or to most families, 9 percent said the guideline was difficult for every family or most families.

Most respondents generalized about the families they thought were helped or disadvantaged by the guideline based on the parents' income level; whether it was low, middle, or high. The families that a plurality of respondents (39 percent) believed were *most helped* by the guideline were middle-income households, followed by high-income households (21 percent) and low-income households (14 percent). The family types for which respondents felt the guideline is *most difficult* were in the reverse order. That is, respondents believed the guideline is most difficult for low-income households (47 percent), followed by high-income households (13 percent) and middle-income households (9 percent).

6-7

Smaller proportions of respondents mentioned specific family types that they believed are helped by the guideline. Among the family types most frequently reported were:

- Custodial parent families (7 percent); and
- Families that do not have responsibilities for supporting other families (7 percent); that is, families where neither parent has an existing child support order and neither parent is supporting other natural or adopted children who are living with them.

In the “other” category, special characteristics of families for which the guideline was seen as helpful included (1) families where the parents have attorneys, (2) families that do not have any special circumstances (for example, special medical needs for the supported children), or (3) families where both parents are employed and earn wages (“ . . . standard wage earners whose family situation is relatively straightforward—not too many other children to support”).

The characteristics of families that were viewed as most disadvantaged by the guideline were:

- Families in which one or both parents has another family to support (23 percent) (“The guidelines penalize obligors with children by different mothers.”); and
- Families where one or both parents is self employed (12 percent) (“Establishing accurate and fair orders with self-employed custodial and noncustodial parents is difficult because establishing accurate incomes is challenging.”).

With respect to second families, some respondents believed that the guideline is unfair because of how it treats additional dependents (for example, the guideline’s preference for first-born over later-born children, second families with biological children of the noncustodial parent, families with stepchildren supported by the noncustodial parent). They argued that the guideline should be revised to accommodate these case types so that all later-born children do not get shortchanged or that parents can support children in new relationships even if they are not biologically their own.

Smaller proportions (in the “other” response category) mentioned families in which the parents are unrepresented, families with hardships (for example, due to high medical expenses), and families that live in high-cost areas of California as being most disadvantaged by the guideline. The last issue—the high cost of living and especially how the cost of living varies among California counties—was a theme throughout much of the survey. Several respondents thought the guideline should be revised to include (1) a county adjustment that factored in the relative cost of living in the county (“The guidelines fail to take into account the payor’s basic living

expenses, which vary depending on the residence location in the state.”), (2) an interstate adjustment that lowered support obligations when the children being supported lived outside California, and (3) a residence adjustment that considered the county where each parent resided (for example, an obligor living in San Francisco County should not have to pay as much child support if the children being supported live in Mendocino County since Mendocino County has a lower cost of living).

REASONS FOR DEVIATIONS AND IDEAS FOR IMPROVEMENT

This section examines what problems respondents said they encounter in using the guideline to establish or modify child support orders, what deviations they see being made to accommodate these problems, and what changes they believe are needed to improve the guideline and make it more useful to parents and to the children for whom support is established. This section pays particular attention to the three issues of primary interest to the Judicial Council: low-income adjustments, whether the guideline should use gross or net income to calculate support obligations, and accommodations for second families.

Deviations

The survey included a question asking respondents to list the reasons they believe courts deviate from the guideline. This was an open-ended question that allowed respondents to list as many reasons for deviations as they wanted. More than a third of the respondents (38 percent) did not answer the question. It is believed that a lot of the nonresponse reflects a lack of familiarity with support order establishment because the highest rates of nonresponse occurred among parents and advocates. Of those two groups, 62 percent did not name a reason that courts deviate. The comparable nonresponse rates for other groups were 21 percent of court respondents, 23 percent of IV-D staff, and 39 percent of private family law attorneys.

Defining what is a *deviation* from the guideline and what is an *adjustment* accommodated by the provisions within the guideline is not necessarily straightforward to some people. Thus, some respondents reported that the courts:

- Make *adjustments* to guideline amounts based on provisions in the guideline, but they do not deviate: “Courts don’t technically deviate from the guideline, but ‘hardship’ deductions and ‘necessary’ job-related expenses are used to lower child support in inappropriate circumstances.”
- Never or rarely deviate: “It is not in my experience to have courts deviate,” and “After practicing for 30 years, I have in only one instance seen the court deviate from the guideline.”

For others, deviations are necessary. As one respondent wrote, “The guideline deals with numbers and not needs. Common sense can occasionally come into play in the court and result in a deviation.”

The principal reasons respondents said courts deviate from the guideline are displayed in Exhibit 6-8. The reasons are shown only as a proportion of respondents who answered the question; thus, it excludes 38 percent of the respondents. The reasons listed in Exhibit 6-8 do not appear too surprising given what respondents cited as the guideline’s strengths and weaknesses and the families they believed are helped or disadvantaged by the guideline. Thus, for example, the issues of low income, other dependents of the parents, lack of income information, and time sharing/visitation are among the deviation reasons given.

The reason most frequently mentioned for deviation was low income of one or both parents (32 percent of the respondents mentioned this as a reason courts deviate), but primarily of the parent paying support. As discussed earlier, problems with the guideline in dealing with low-income parents was a theme throughout the survey; the guideline’s low-income provision was viewed as a weakness, and low-income families were seen as disadvantaged by the guideline. Since this issue was also a central focus of the guideline study, it is addressed below in greater detail when respondents’ recommendations for improving the low-income provisions are discussed. However, one comment that tends to summarize many respondents’ feelings is worth citing here:

People who earn minimum wage and have too many children are at a disadvantage as there is no money left to live on and pay support. However, this is not really a guidelines problem, but a social problem. The guidelines should not be adjusted to correct social ills.

Some reasons for deviations that were not frequently mentioned in response to other survey questions included:

- Stipulation (12 percent of respondents who gave a reason): “No court ever seems to deviate from the guideline unless the parents stipulate to a different order amount.”
- Extraordinary expenses of one or both parents (9 percent): “Cases in which the obligor must pay something toward substantial arrearages that are owed to the state/county.” “To compensate for spousal support when it can no longer be ordered. In my case, the child support is so high that my ex-wife, her new husband, and one of his children can live off the support ordered by the court for my four children.”

6-8

- Time-sharing/visitation expenses (9 percent): several respondents just mentioned that courts sometimes consider the costs of visitation, especially travel costs, but as one respondent wrote:

[The court deviates] when the noncustodial parent takes employment in another state and cannot afford to visit the children. By moving out of state to keep employed and to keep up with the support order, the visitation frequency goes down. When the visitation goes down, the amount of financial support goes up. When the already high financial support goes up, the less affordable it becomes to visit the children.

Problems Using the Guideline

As with the question about the reasons that courts deviate from the guideline, the survey gave respondents an opportunity to list any problems they had using the guideline to establish or modify child support orders. The nonresponse rate to this question was about the same (34 percent) as to the question about the reasons that courts deviate, except that the proportional nonresponse rate was about the same for all groups. Thus, parents and advocates were just as likely to list a problem as child support staff and attorneys. Despite the fact that respondents were allowed to name as many problems as they wanted, only about a quarter of the respondents (26 percent) named more than one problem.

The major problems respondents said they have using the guideline are displayed in Exhibit 6-9. As in earlier graphs, the problems are displayed only as a proportion of respondents who listed at least one problem. The problem most frequently mentioned is that orders set using the guideline are too high (33 percent), a comment that reflects respondents' ratings to earlier survey questions about the fairness and level of child support orders. Many comments about the high level of support were directed at low-income payors. Although some respondents made general comments about the guideline being too high ("It [the guideline] is too high for most people."), others were more specific ("The guideline is too high in very-low-income situations and where the time share is 0–20 percent.").

Many problems that respondents listed were grouped into a category called "gross income adjustments," which was listed by 12 percent of respondents. This category included comments about problems:

- Defining income (for example, "It is unclear on how to measure income—how to deal with IRA withdrawals, tax refunds, rental losses—especially self-employment income.");

- Treating certain kinds of income (for example, “There is a problem with how the guideline treats income from overtime. Some courts include all overtime pay and some courts include a percentage of it.”);
- Dealing with special tax situations (for example, “There is an inability to zero out specific taxes, such as state or federal taxes for certain types of nontaxable income.”); or
- Accommodating income from another spouse (for example, “When you plug in the other spouse’s income, it skews the numbers.”).

Although the issue of additional dependents is discussed in greater detail below, it is useful here to cite a few quotes from respondents who reported problems using the guideline in cases where there are other dependents or where there are multiple orders for support.

Guideline support tends to be too high, especially in cases where the absent parent has other children in a subsequent relationship to care for . . . the hardship deductions are not adequate.

Determining the appropriate amount when there are multiple cases and/or children at home with a new relationship. Guidelines do not leave enough money to live on let alone pay for the new relationship’s expenses.

It is difficult to compute [a support order using the guideline] when the noncustodial parent is seeking to modify two orders simultaneously. The formula requires that the amount of the other child support order be considered, but that amount is not easily ascertainable because it will be modified.

Finally, among the “other” problems respondents mentioned, there were several mentions of the DissoMaster, the computer software program that computes support obligations. Some examples include the following comments: “Differential treatment of tax consequences of remarriage by SupporTax and DissoMaster,” “The computer software does not allow for unique situations,” “The DissoMaster used in our office does not have the low-income adjustment,” “DissoMaster and Norton SupporTax do not come out the same,” and “The computer models are complex, misused, and are sometimes not understood by the parties or the court.” Or finally:

Since courts use computer software programs to calculate support based on the guideline, the problems experienced are those inherent in the particular programs. The most commonly used program is DissoMaster and it does not permit calculation for 50/50 custody—that is the biggest problem in the use of the guideline.

Dealing With Low-Income Obligors

Every state struggles with the issue of what level of support to establish in cases involving low-income obligors. The California guideline allows an adjustment to the support amount if the obligor's net income is less than \$1,000 per month. Although California is not the only state that establishes a threshold income at which a parent is eligible for an adjustment, there are many other ways to accommodate low-income situations. For example, some states have built an adjustment directly into their guidelines, while others have a mechanism to ensure that the obligor is able to maintain a minimum standard of living even after paying support. The Judicial Council is interested in learning what changes respondents believed are needed to the existing low-income provision in the guideline. The answers given to this open-ended question are displayed in Exhibit 6-10.

Almost half of all respondents (49 percent) did not offer any suggestions for changes to the low-income adjustment provision. An additional 17 percent of respondents said that no changes were needed. (This proportion is shown in Exhibit 6-10 as 31 percent of respondents who answered the question.) Thus, almost two-thirds of all respondents (66 percent) were satisfied with the existing low-income adjustment mechanism or had no suggestions about what changes should be made to the adjustment to improve it.

A plurality of those who did offer a suggestion (30 percent) said that the threshold is too low and needs to be increased. Among respondents' recommendations for changing the threshold were:

- Increase it to a specific higher amount (recommended increases ranged from \$1,500 to \$3,000 per month);
- Eliminate the threshold and establish a sliding scale so that parents who are near but not at the threshold can qualify for some adjustment to their support amount; and
- Use different, higher thresholds depending on the parents' county of residence, since the standard of living is vastly different among California counties.

The only other recommendation mentioned by at least 10 percent of respondents who answered the question was that any change should consider what it costs to maintain a minimum standard of living (15 percent) and ensure that the obligor has at least that amount of income left after paying child support. Respondents had somewhat different opinions about how this standard should be determined and how an adjustment for this standard should be applied. Some respondent suggestions include: (1) "The obligor and obligee should be permitted to retain a

6-10

minimum amount of earnings as ‘basic living expenses,’ which should be exempt before setting support,” (2) “People whose net disposable income is more than \$1,000 but who still cannot maintain their standard of living should have recourse to justice through downward adjustments in the amount they pay,” (3) “Allow all low-income parents—both custodial and noncustodial parents—an exemption equal to the minimum basic standard of adequate care to meet their own needs,” and (4) “I don’t think child support should hurt the noncustodial parent’s opportunity to spend time with the child. So, the adjustment should allow the noncustodial parent enough money to care for him/herself and still see the child.”

Other ideas for the circumstances under which a low-income adjustment should be considered included the obligor’s other children, the cost of rent in California, transportation expenses, mortgage payments, a sudden reduction in income (due to, for example, job loss or incarceration), and the obligor’s medical needs (mental, physical).

A relatively small proportion of respondents were less sympathetic to low-income obligors than others. Thus, 5 percent of respondents suggested that the low-income adjustment be eliminated altogether. Among the “other” responses were suggestions that use of the low-income adjustment be conditional on the obligor participating in job training or seeking at least a minimum wage job. As one respondent stated:

If someone’s net income is less than the minimum basic standard of living, child support should be reserved and the parent should be ordered to look for work and report back to the court.

A full-time minimum wage worker earns \$997 gross, \$855 net. The LIA [low-income adjustment] should be available if monthly net income is less than \$855 and should include an order to seek full-time employment since the LIA would only be available to part-time workers. Also, if a noncustodial parent has income below \$855, the subsequent spouse’s income should be considered before the LIA is allowed.

Not reflected in Exhibit 6-10 about the changes that respondents recommended to the low-income adjustment were comments about the need to have a minimum support obligation; that even in low-income situations there needs to be a minimum support order entered by the court. As one respondent wrote, “There should be a flat bottom minimum nominal child support amount below which no one can go unless there is a court hearing.” Others argued against any minimal support obligation and believed that in some cases a \$0 support order is justified.

In sum, respondents did not make a wide range of suggestions about how to change the low-income adjustment provision. Most want to see it increased and others recommend considering the cost of living in making that adjustment. What those costs are, however, differed in the suggestions of respondents, with some saying that the adjustment should (1) take account of “everyday living expenses” of the obligor, (2) be minimum wage income; (3) equal the federal poverty threshold for a single person or some percentage of that threshold, (4) allow a “quality” standard of living or a “reasonable” standard of living, (5) reflect “real life” economic conditions, or (6) not reduce the obligor’s existing standard of living.

Using Net or Gross Income to Calculate Support

A second issue of particular interest to the Judicial Council was whether users believed the guideline should calculate support based on the parents’ gross or net income. The existing guideline uses net disposable income, and, as many respondents reported, there are problems with this approach because of how net income is calculated. Some respondents did not believe that the guideline’s provisions adequately or accurately calculate net income (for example, taxes are incorrectly calculated). Other respondents cited difficulties dealing with complex tax situations, marital debt, mortgage payments, business expenses, and judges who sometimes disregard some income in calculating gross income. The survey therefore sought users’ opinions about the use of net or gross income as a base for support calculations. Specifically, the survey asked respondents three questions: (1) whether it is *easier* to use gross or net income to calculate support, (2) whether it is *more equitable* to use gross or net income to calculate support, and (3) whether they believed the guideline *should use* net or gross income (or some other income) to calculate support. The answers are displayed in Exhibit 6-11 for all respondents. Then, Exhibit 6-12 displays the responses to two questions by respondent group (for example, parents, private attorneys).

The pie charts in Exhibit 6-11 clearly show that respondents prefer that the guideline use net income. A plurality (38 percent) believe that net income is easier to use than gross income, a majority (64 percent) believe that net income is more equitable to use than gross income, and a majority (58 percent) believe that the guideline should use net income rather than gross. Fairly sizable proportions of respondents said they did not know which was easier, more equitable, or what should be used. Many did not see the point of the question. The following remark reflects the comments of several respondents on this point.

I don’t understand. We start from gross income in every case. The computer ends up calculating net income in every case. We don’t calculate anything.

6-11

This perspective certainly was not shared by everyone since many people reported adjustments to gross income for different tax situations, business expenses, mortgage payments, and the like. As mentioned earlier, some respondents even said that judges make adjustments to what income is counted as gross. The remark does reflect some confusion about how the guideline works.

To the question about what income *should be used* to calculate support orders, 10 percent of all respondents said “other,” although not all other suggestions were income driven. For example, some respondents believed that support should be based on the actual costs of raising a child, half of the federal poverty threshold for one child, or that each parent should pay the costs of child rearing when the children were with him or her. Of the suggestions that were based on parents’ incomes, there were suggestions that net income be used, but adjusted for cost-of-living differences in California counties, mortgage/rent and transportation expenses, and individual family situations.

Exhibit 6-12 shows the opinions about the use of gross and net income by respondent group. The proportions for each group do not add up to 100 percent because the figures do not show the proportion of “don’t know” responses, which in some cases was substantial, particularly to the question about whether gross or net income is more equitable to use in calculating support orders. For example, some 60 percent of parents did not know which is more equitable, compared to 18 percent of private attorneys and less than 10 percent of the other groups in the figure.

From the exhibit, it is evident that the opinion among respondent groups was divided about whether gross or net income is easier to use. Parents and advocates were significantly more likely than other user groups to report that net income is easier to use to calculate support than gross income. Conversely, user groups were more likely than advocates and parents to report gross income as easier to use than net to calculate support. The proportions of respondents who thought that both are equally easy were about the same across all groups.

In terms of whether gross or net income is more equitable to use, respondent groups were in greater agreement. The majority of users (including parent and child advocates) believed net income is more equitable to use. Parents, on the other hand, were almost equally divided in their opinion about whether gross or net income is more equitable. But, since some 60 percent of parents did not or did not know how to answer, it is impossible to determine their true preferences. As indicated by some earlier comments, some parents believe income is the wrong base to use in calculating support in the first place.

6-12

Second Families

A third issue the Judicial Council was particularly interested in having the survey address was second families; that is, children the obligor or obligee has a duty to support but who are not covered by a child support order. The survey asked respondents what changes they thought should be made to the guideline's existing provisions for two scenarios:

- *Scenario 1.* The obligor or obligee has a second family with children who are not living in that parent's household and that parent is paying voluntary (not court-ordered) support for those children. The guideline currently provides for a deduction from income for any voluntary support actually being paid but not to exceed the amount established by the guideline.
- *Scenario 2.* The obligor or obligee has a subsequent intact family unit with children who are being directly supported by that parent while residing in that parent's household. The guideline currently provides for a maximum hardship deduction in this circumstance, but not to exceed the support allocated each child for whom support is being calculated.

The suggestions for dealing with these situations are displayed together in Exhibit 6-13 since in many instances the suggestions were the same. As in earlier graphs, the proportional response rates are based only on the people who answered the question. Approximately 43 percent of the respondents did not answer one or both questions.

For both scenarios, a majority of the respondents believed that the provisions in the guideline are adequate or fair. Thus, 59 percent of the respondents believed the provisions for dealing with voluntary payments are all right, and 56 percent believed that the provisions for dealing with subsequent children in the parent's home are acceptable. At the other extreme, small proportions of respondents—proportions too small to be displayed individually in the exhibit—believed that the provisions should be eliminated.

Scenario 1

With respect to the first scenario (that is, deductions from income for voluntary payments), the change that a plurality of respondents recommended was that the parent must show proof of payment (14 percent of the respondents made that suggestion). They recommended that the parent paying support should be required to show a record of continuous payment for six months or that the parent receiving support sign an affidavit that support is being paid. Even as they made this

6-13

suggestion, however, they saw problems for some respondents. In the words of one respondent:

Change the documentation requirement to a sworn affidavit. The problem in this area comes from the documentation requirement. Many noncustodial parents have paid in cash or provided in-kind support which they can't document and therefore they won't get the deduction.

Another respondent worried that even with proof of payment there would be problems and suggested that a support order was needed for those children.

A person should be entitled to a deduction if the child support is court-ordered. Without a court order, the obligor could stop paying the other child's support the day after he/she gets the deduction and the present custodial parent probably would not be aware of it or would have great difficulty paying it.

The second most frequently mentioned suggestion was that all children should be included in the support calculation. That is, instead of allowing a deduction for voluntary support paid, the parent's full income should be used to compute a support obligation that includes all the children. This could be done in two separate calculations, or a single obligation could be computed and then the obligation could be prorated based on the number of children being supported in each household. The following two comments reflect the thinking of respondents on this issue.

The second-family deduction should be computed at the guideline level to avoid subsequent modification of the established order if a formal order is ever sought for family number two. All the children should be treated equally for support purposes.

I think guidelines should disregard the amount actually being paid voluntarily and assume that a guideline order is already in place for the other case. This way only one extra modification hearing will be required. Otherwise, a modification in the other case would not result in guideline support in both cases.

Among the other comments about the *amount* of the deduction were suggestions that it should consider the actual living expenses of the children for whom voluntary support was being paid and any income of the new spouse/partner. Other respondents suggested that the deduction be eliminated, be mandatory, be discretionary, or be dependent on which set of children were born first. Among those advocating to eliminate the deduction was one respondent who said, "Eliminate this

hardship deduction. I've seen too many cases where the noncustodial parent claims this, but it ends up being for (1) payments that started after our cases did or (2) payments that have been very sporadic."

Scenario 2

Scenario 2 met with many of the same comments as Scenario 1. Thus respondents suggested the following:

- All children should be considered in calculating the support obligation (10 percent of those who answered the question): "Children from both families should be treated equally in terms of providing money for each family's support. No preference should be given to 'which children were born first.'"
- The income of the new spouse/partner should be considered in establishing what the deduction amount should be for the subsequent family (8 percent): "Do not automatically give a maximum hardship deduction. The guideline should offer a sliding scale and take into account the income of the new spouse/partner/parent of the subsequent children."
- Consider the children's special needs in establishing an appropriate deduction amount (6 percent): "Include a provision for special needs children and actual child-care costs being paid for children in the second family," and "If NO special circumstances are involved (for example, medical, educational), then it should stand as it is. When there is a special circumstance, whenever it occurs, an immediate allowance should be put into place."
- Consider the actual living expenses of the children in the subsequent household (3 percent): "I believe the guideline needs to be more realistic as to the actual costs of supporting the subsequent intact family unit. The maximum hardship deduction is unrealistic and fails to consider the detrimental effect that the resulting support order may have on the obligor's/obligee's new family and children."

A few respondents, but not enough to be included in the graph, were outspoken in their opposition to any adjustment. In the words of one respondent, "Normally a parent chooses to have a subsequent family unit. If support is lowered due to that obligation, the obligee is, in effect, subsidizing the subsequent unit. That is generally unfair." Other respondents believed the hardship deduction should be reduced to the "minimum living expenses of the subsequent child." And finally, others thought the hardship deduction as stated in the guideline was not enough. "Children of non-custodial parents living with them deserve the same protection as children who benefit from a support order. There should be a much more significant hardship

adjustment to income for children of a second spouse living with the noncustodial parent.”

It appears from respondents’ remarks that courts have made some adjustments to this guideline provision in calculating the hardship deduction. As one respondent stated, “Our court only gives a one-half hardship deduction for these types of children, reasoning that the other parent of that child is responsible for the other half of that child’s care.” Some respondents noted that because all families are unique, there should be considerably more latitude given to judges in setting the amount of the deduction.

SUMMARY

This chapter has presented findings primarily from a survey of people in California who use the child support guideline to establish and modify support orders, although some parents also responded. The survey’s purpose was to (1) assess whether these users believe the guideline results in orders that are fair and equitable, (2) learn what users believe are the strengths and weaknesses of the guideline, (3) understand what problems users have with the guideline in establishing support obligations, (4) identify what reasons users believe courts deviate from the guideline, and (5) identify changes needed to some of the provisions in the guideline dealing with low income, second families, and the use of gross or net income to calculate support obligations.

The Guideline’s Strengths and Weaknesses

Overall, respondents rated the guideline as mostly unfair to the noncustodial parent and the parents’ children from other relationships and mostly fair to the custodial parent. The fairness rating they gave to the children for whom support was established was in the middle of the fairness scale, thus neither fair nor unfair. That is, on a four-point scale, the average fairness rating was considerably less than 2.5 for both parents and the children from other relationships and somewhat greater than 2.5 for the children for whom support was established. This perceived lack of fairness was further evidenced in what respondents believed about the level of support orders; whether they are too high, about right, or too low. A majority of respondents (60 percent) believed the support orders established using the guideline are too high. About a quarter of all respondents (28 percent) believed they are about right, and only 4 percent believed they are too low. Regardless of these opinions, however, most respondents had some positive things to say about the guideline, which are captured in the following remark:

The guidelines aren't perfect, but they have resulted in orders that are far more consistent than in past years and more in tune with reality in terms of the cost of providing support for children.

Indeed, in reporting about the guideline's strengths, respondents most frequently mentioned that the guideline (1) is consistent, uniform, and objective (22 percent); (2) yields predictable results (11 percent); (3) is fair to children (7 percent); and (4) yields reasonable support amounts (5 percent). Respondents also cited the guideline for its ease of use (7 percent), its use of net income (9 percent), its consideration of each parent's time with the children (10 percent), and the judicial discretion the guideline allows to deal appropriately with each family's unique circumstances (6 percent).

Respondents mainly faulted the guideline for yielding support orders they believe are too high (19 percent) and for being too rigid and inflexible (13 percent). They also mentioned special factors about the guideline they did not like, such as the shared parenting time adjustment (13 percent), which many believed encourages conflict between the parents; the additions for child care and medical costs (11 percent), which they believe are unfair; and the low-income adjustment (7 percent), which they believe is inadequate. Yet, they also were disappointed that the guideline does not address other special factors of interest to them, such as rent, transportation, and excessive visitation costs.

It was difficult to make a direct link from what respondents saw as the guideline's strengths and weaknesses to what types of families they believed are helped or disadvantaged by the guideline because responses to the question about families were more general. Thus, instead of talking about the presence or absence of specific adjustments, respondents mentioned very general family types. Moreover, the types of families respondents believed are helped by the guideline were also the types they thought are disadvantaged. For example, 8 percent of respondents said the guideline helps all families, and 9 percent said the guideline is difficult for families. Similarly, respondents reported the guideline as helpful or difficult for low-income, middle-income, and high-income families, although not in the same proportions. Thus, while 47 percent of respondents said the guideline is difficult for low-income families, only 14 percent said the guideline is helpful to low-income families.

In general, respondents seemed to believe that the guideline is most helpful to middle-income families that do not have any special circumstances that need to be considered (for example, no second families, no unusual expenses). The guideline appears to be most difficult for low-income families and those who have special circumstances (for example, one or both parents is self-employed or there are hardships or multiple families to consider).

Problems and Deviations

Among the problems respondents reported in using the guideline, the most frequently mentioned problem (33 percent of the respondents who listed a problem) was that the guideline yields support orders that respondents believed are too high. Respondents also cited problems with time-sharing arrangements (20 percent) and then several problems dealing with gross income (12 percent). In particular, respondents reported problems dealing with self-employment income, imputing income when income information is not known, and adjusting for income from overtime, bonuses, and another partner or spouse. A final set of problems mentioned dealt with special factors, such as low income, other dependents, multiple support orders, and children's special needs.

The reported problems using the guideline are reflected in the reasons respondents said courts deviate from the guideline in calculating child support orders. For example, the most frequently reported reason for deviations was low income (32 percent of the respondents who listed a deviation). Similarly, respondents reported deviations to accommodate the unusual needs of each family (for example, second families, parents' extraordinary expenses, time sharing/visitation expenses) and to deal with income issues (for example, absence of income information, under- and unemployed noncustodial parents).

Adjustments for Special Factors

This study paid particular attention to three issues: (1) the low-income adjustment in the guideline, (2) the use of gross or net income to calculate support orders, and (3) adjustments for second-family situations (that is, children not covered by a child support order but who the obligor or obligee has a duty to support). The survey included questions that asked respondents for recommendations for how to incorporate adjustments for these factors into the guideline.

Low-Income Adjustment

One survey question asked respondents to rate the adequacy of the guideline's adjustments for 11 special factors. Of those factors, the adjustment for low income received the lowest adequacy rating. Also, when asked to list the family types for which the guideline is most difficult, the most frequently mentioned was low-income families. Yet, when asked what changes they would like to see made to the low-income adjustment, almost two-thirds of all respondents (66 percent) did not make a suggestion or said no changes are needed.

Among respondents who did submit suggestions, the changes they would most like to see dealt with the income threshold used to qualify parents for a low-income adjustment. Most respondents believed the existing threshold (\$1,000 per month net income) is too low and should be (1) increased to a higher amount, (2) changed to a sliding scale (for example, to accommodate different costs of living in different California counties), or (3) changed to consider the minimum costs to live, which had different meanings to different respondents (for example, federal poverty level, “reasonable” costs, existing standard of living). At the other extreme were respondents who suggested eliminating the adjustment altogether or making eligibility for the adjustment conditional on the obligor parent enrolling in a jobs training program or seeking work. Finally, a small proportion of respondents thought that the low-income issue could be resolved or handled better by allowing greater judicial discretion in setting the amount of the support order.

Gross Versus Net Income

The clear preference from all respondent groups was that the guideline should use net income to calculate support. A plurality of respondents (38 percent) said net income is easier than gross income to use in calculating support, a majority (64 percent) believed it is more fair to use net than gross income, and a majority (58 percent) believed that the guideline should use net income. While some respondents had other suggestions for calculating support obligations that were not based on income (for example, the actual costs of raising a child), most respondents appeared to like the guideline’s use of net income.

Second-Family Adjustments

The survey defined the second-family situation in two scenarios: (1) parents paying voluntary (not court-ordered) support for children not residing with them and (2) parents supporting children who live with them and who they have a duty to support. A majority of the respondents who answered the questions said that the existing provisions in the guideline for dealing with these situations are fair, acceptable, or adequate and that no changes are needed.

Specific suggestions for changing the provisions that deal with voluntary payments included (1) requiring that the parent show proof of payment, generally over a substantial period of time (for example, six continuous months), (2) establishing a court-ordered support obligation for all the children so that the needs of all the children would be addressed and prevent further litigation of the support issue, and (3) considering the actual living expenses of all the children.

The respondents’ suggestions for dealing with the intact family situation were similar to the suggestions for handling voluntary payments. Thus, a plurality

recommended including all the children needing support in the calculation of the support order. Other recommendations included (1) taking account of the new spouse/partner's income, (2) considering any special needs of the children needing support, and (3) considering the actual living expenses of the children in the second family.

Conclusions

The survey uncovered many contrasting points of view. On the one hand, there were respondents who would like the guideline to be advisory so that judicial officers can deal with the unique needs of each family and differences in the cost of living in California counties. They would like to allow judicial officers greater discretion in making adjustments to support orders calculated using the guideline. The comments below at least partly reflect the opinions of some respondents in this group.

Family units are very complicated in nature. When divorce happens to a family, each case has unique circumstances. I have seen non-custodial parents taken to the cleaners (so to speak) and then I have seen custodial parents get very little support because the other parent is unemployed and manipulates the system. I suppose the system will never be perfect, but I feel that the needs of the children aren't always being met.

California has extremes; the best and worst, the richest and poorest. Creating one guideline that works for high wage earners in LA and also works for poor people in Siskiyou County is not an easy—or some would say possible—task.

Other respondents like the presumptive nature of the guideline (for example, greater objectivity, uniformity, consistency, predictability) and some of them seem to want even more structure and less judicial discretion in establishing support order levels.

Despite these contrasting points of view, a majority of respondents did not have major recommendations for improving the guideline. For example, a majority still believe the guideline should use parents' net income to calculate support, and majorities either had no suggestions for change or believed that the existing guideline provisions are acceptable for dealing with low-income families and second-family situations.

Regardless of what changes are made to the existing guideline, respondents all believe that parents have the right and responsibility to support their children. The challenge appears to be developing a guideline that deals evenhandedly with both parents and their children. Many respondents do not believe the existing guideline

achieves that objective, and this survey has presented many ideas for improvements to deal with special circumstances.

